

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition of Onvoy d/b/a Inteliquent, Inc. for	)	WC Docket No. 18-155
Temporary Waiver of Section 61.3(bbb)(1)(ii)	)	
of the Commission's Rules	)	

**ORDER**

**Adopted: September 30, 2021**

**Released: September 30, 2021**

By the Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. In this Order, the Wireline Competition Bureau (Bureau) partially grants Onvoy, LLC d/b/a Inteliquent's (Inteliquent) fifth request to renew, in part, the temporary waiver of part of the Commission's Access Stimulation definition that we first granted to the company in March 2020.<sup>1</sup> Inteliquent's request is based on changes the COVID-19 pandemic has caused to its business with respect to the company's preexisting customers that provide conference calling services.

2. Inteliquent is a competitive local exchange carrier (LEC) that provides service to large enterprise customers. Among Inteliquent's preexisting customers are Zoom Video Communications, Inc. (Zoom) and Cisco Webex, two of the premier conference calling service providers in the United States. The increased volume of teleconferencing calls received by Zoom and Cisco Webex, and the decrease in telephone calls originating from Inteliquent's enterprise customers because of the move to telework resulting from the COVID-19 pandemic, has materially increased Inteliquent's ratio of terminating-to-originating traffic. As a result, Inteliquent's traffic to affected end offices in a calendar month now exceeds the 6:1 ratio that would make Inteliquent an "access stimulating" competitive LEC under the rules the Commission adopted in the 2019 *Access Arbitrage Order*.<sup>2</sup> Pursuant to those rules, absent a waiver, Inteliquent would be required to accept the financial responsibilities that apply to access-stimulating competitive LECs.<sup>3</sup> To avoid this outcome, we initially granted Inteliquent a limited and temporary waiver of part of the Access Stimulation rules through June 2020.<sup>4</sup> As the pandemic has

<sup>1</sup> Request of Onvoy, LLC d/b/a Inteliquent for Renewal of Temporary Waiver of Section 61.3(bbb)(1)(ii) of the Commission's Rules, WC Docket No. 18-155 (filed Aug. 19, 2021), <https://ecfsapi.fcc.gov/file/10819054827369/Public%20Redacted%20-%20Inteliquent%20Waiver%20Renewal%20Request%20-%20August%202021.pdf> (Fifth Renewal Request); *Petition of Onvoy d/b/a Inteliquent, Inc. for Temporary Waiver of Section 61.3(bbb)(1)(ii) of the Commission's Rules*, WC Docket No. 18-155, Order, 35 FCC Rcd 2934 (WCB 2020) (*Inteliquent Waiver Order*).

<sup>2</sup> *Updating the Inter-carrier Compensation Regime to Eliminate Access Arbitrage*, WC Docket No. 18-155, Report and Order and Modification of Section 214 Authorizations, 34 FCC Rcd 9035 (2019) (*Access Arbitrage Order*), *pets. for review denied sub nom. Great Lakes Commc'ns Corp. et al. v. FCC*, 3 F.4th 470 (D.C. Cir. 2021).

<sup>3</sup> 47 CFR § 61.3(bbb)(1)(ii); 47 CFR § 51.914; *see Access Arbitrage Order*.

<sup>4</sup> *Inteliquent Waiver Order* (granting a temporary waiver of 47 CFR § 61.3(bbb)(1)(ii)).

continued, we have renewed the temporary waiver four times.<sup>5</sup> Consistent with Inteliquent's third and fourth waiver requests, the most recent waiver covers only two urban Local Access Transport Areas (LATAs) in which Inteliquent terminates traffic (Chicago, Illinois and Houston, Texas).<sup>6</sup> The most recent waiver covers the company through the end of September 2021, meaning that, without an extension, Inteliquent could be found in violation of the Commission's access stimulation rules if it did not bring its tariff ratios into compliance with our rules by October 1.<sup>7</sup>

3. On August 19, 2021, Inteliquent requested a fifth renewal of the temporary waiver, until March 1, 2022, for traffic terminating in the same two urban LATAs covered by the most recent waiver renewal order.<sup>8</sup> Inteliquent seeks an extension of the waiver to avoid the financial burden associated with being labeled an access stimulator because of the continued high level of terminating conference platform traffic to its preexisting customers Zoom and Cisco Webex.<sup>9</sup> We agree that Inteliquent has shown that "[b]ut for the pandemic and Inteliquent's service to these well-established conference calling platforms, Inteliquent would again not require an extension of the limited temporary waiver."<sup>10</sup> Therefore, as described herein, we find good cause to renew the waiver and grant, in part, Inteliquent's Fifth Renewal Request. The temporary waiver is granted through December 2021, given the ongoing uncertainty about how long the pandemic will continue to impact Inteliquent and its customers.

## II. BACKGROUND

4. In September 2019, the Commission unanimously adopted the *Access Arbitrage Order* to reduce the use of the intercarrier compensation system to implicitly subsidize services through revenues generated by access stimulation.<sup>11</sup> Among other actions the Commission took in the *Access Arbitrage Order*, it modified the definition of access stimulation.<sup>12</sup> Under the modified definition in section 61.3(bbb)(1)(ii) of the Commission's rules, a competitive LEC is deemed to be engaged in access stimulation if it "has an interstate terminating-to-originating traffic ratio of at least 6:1 in an end office in

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<sup>5</sup> *Petition of Onvoy d/b/a Inteliquent, Inc. for Temporary Waiver of Section 61.3(bbb)(1)(ii) of the Commission's Rules*, WC Docket No. 18-155, Order, 35 FCC Rcd 6444 (WCB 2020) (*Inteliquent Waiver Renewal Order*); *Petition of Onvoy d/b/a Inteliquent, Inc. for Temporary Waiver of Section 61.3(bbb)(1)(ii) of the Commission's Rules*, Order, WC Docket No. 18-155, 35 FCC Rcd 10385 (WCB 2020) (*Inteliquent Second Waiver Renewal Order*); *Petition of Onvoy d/b/a Inteliquent, Inc. for Temporary Waiver of Section 61.3(bbb)(1)(ii) of the Commission's Rules*, WC Docket No. 18-155, Order, 35 FCC Rcd 14570 (WCB 2020) (*Inteliquent Third Waiver Renewal Order*); *Petition of Onvoy d/b/a Inteliquent, Inc. for Temporary Waiver of Section 61.3(bbb)(1)(ii) of the Commission's Rules*, WC Docket No. 18-155, Order, 36 FCC Rcd 5705 (WCB 2021) (*Inteliquent Fourth Waiver Renewal Order*).

<sup>6</sup> *Inteliquent Fourth Waiver Renewal Order*.

<sup>7</sup> *Id.* at 5712, para. 17. Under the Commission's rules, a competitive LEC meets the definition of being engaged in access stimulation if it has an "interstate terminating-to-originating traffic ratio of at least 6:1 in a calendar month." 47 CFR § 61.3(bbb)(1)(ii). In keeping with the other waivers granted to Inteliquent, in the *Inteliquent Fourth Waiver Renewal Order*, the Bureau waived the application of section 61.3(bbb)(1)(ii) to Inteliquent through September 1, 2021. Thus, Inteliquent received a waiver of the access stimulation definition, and attendant financial obligations, through the month of September 2021. *Inteliquent Fourth Waiver Renewal Order*, 36 FCC Rcd at 5712, para. 17.

<sup>8</sup> Fifth Renewal Request at 1-2.

<sup>9</sup> *Id.* at 2 ("COVID-19 continues to cause substantial conference platform traffic for Inteliquent to terminate for pre-existing customers Zoom and Cisco Webex. Although the traffic ratios continue to decrease towards 6:1, with the Delta variant delaying a return to in-person work and other activities for many Americans, Inteliquent anticipates that the importance of these platforms for remote work, distance learning, and socializing with friends and family will continue.").

<sup>10</sup> *Id.*

<sup>11</sup> *Access Arbitrage Order*, 34 FCC Rcd at 9035-36, para. 1.

<sup>12</sup> *Id.* at 9053, para. 43.

a calendar month.”<sup>13</sup> The Commission’s rules also require that a LEC “engaged in Access Stimulation . . . shall assume financial responsibility for any applicable Intermediate Access Provider’s charges for such services for any traffic between such local exchange carrier’s terminating end office or equivalent and the associated access tandem switch.”<sup>14</sup>

5. In granting Inteliquent’s initial petition for temporary waiver of section 61.3(bbb)(1)(ii),<sup>15</sup> we found that, prior to March 2020, Inteliquent did not meet the definition of an access-stimulating LEC.<sup>16</sup> We reasoned that by limiting the temporary waiver to Inteliquent’s preexisting customers—those that the company served before the advent of the pandemic—the waiver would be tied to the unexpected COVID-19 pandemic-related market conditions, and would not allow Inteliquent to avoid the legal consequences of adding access-stimulating customers.<sup>17</sup> We found credible Inteliquent’s explanation that the shift in its traffic ratios was the result of serving its preexisting customers’ increased traffic volume in response to the public health crisis.<sup>18</sup>

6. On May 13, 2020, Inteliquent sought a renewal of its temporary waiver. In its request, it sought an extension of the temporary waiver until September 1, 2020, but narrowed the request to cover traffic terminating in only six urban LATAs.<sup>19</sup> We granted that request, relying on Inteliquent’s actual and projected traffic volumes and terminating-to-originating traffic ratios for the six LATAs.<sup>20</sup> We found that granting the renewal was in the public interest<sup>21</sup> and, to protect against abuse, we limited the waiver renewal to traffic Inteliquent terminated to its “preexisting customers.”<sup>22</sup> We required that any further waiver renewal request contain a certification that there has been no material change in the facts that led to the grant of the original waiver or the initial renewal, and that Inteliquent include traffic volume information for the two months preceding the certification and projected traffic volumes for the succeeding two months.<sup>23</sup>

7. On August 18, 2020, Inteliquent filed its Second Renewal Request seeking to renew the waiver through March 1, 2021, while further narrowing the scope of the temporary waiver to traffic terminated to preexisting customers in four of the six urban LATAs covered in the *Inteliquent Waiver*

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<sup>13</sup> 47 CFR § 61.3(bbb)(1)(ii). The Commission also revised the access stimulation definition to include a higher ratio for rate-of-return LECs that are not parties to revenue sharing agreements, 47 CFR § 61.3(bbb)(1)(iii), while maintaining a lower ratio for both competitive LECs and rate-of-return LECs that are parties to a revenue sharing agreement, 47 CFR § 61.3(bbb)(1)(i).

<sup>14</sup> *Id.* § 51.914(a)(2).

<sup>15</sup> Petition of Onvoy, LLC d/b/a Inteliquent for Temporary Waiver of Section 61.33(bbb)(1)(ii) of the Commission’s Rules, WC Docket No. 18-155 (filed Mar. 17, 2020) (Inteliquent Waiver Petition).

<sup>16</sup> *Inteliquent Waiver Order*, 35 FCC Rcd at 2938-39, para. 15.

<sup>17</sup> *Id.* at 2938, para. 14.

<sup>18</sup> *Id.*

<sup>19</sup> Inteliquent requested waiver for the following LATAs: Chicago, IL; Houston, TX; Philadelphia, PA; Jacksonville, FL; New York, NY; and Denver, CO. Request of Onvoy, LLC d/b/a Inteliquent for Renewal of Temporary Waiver of Section 61.3(bbb)(1)(ii) of the Commission Rules, WC Docket No. 18-155 (filed May 13, 2020) (Renewal Request). In its waiver request, Inteliquent said its “terminating conference call traffic continues to be routed efficiently to largely urban destinations based on legitimate network considerations, with rates benchmarked to the applicable RBOC serving the area where the calls terminate, all while imposing no mileage charges on IXC for terminating this traffic (whether at the tandem or end office).” *Id.* at 5.

<sup>20</sup> *Inteliquent Waiver Renewal Order*, 35 FCC Rcd at 6447-48, para. 11.

<sup>21</sup> *Id.* at 6448, para. 12.

<sup>22</sup> *Id.* at 6448, para. 13 (maintaining the limitation to customers Inteliquent served prior to the advent of the pandemic, as was required in the *Inteliquent Waiver Order*).

<sup>23</sup> *Id.* at 6449, para. 15.

*Renewal Order*.<sup>24</sup> The Second Renewal Request included a certification that there had been no material change to the facts that led us to grant the Petition or Renewal Request.<sup>25</sup> We again found that the dramatically increased demand the pandemic created for the services of Inteliquent's preexisting conference calling service provider customers constituted a special circumstance justifying a renewal of the temporary waiver and that the public interest supported renewal.<sup>26</sup> Although Inteliquent requested a six-month waiver, we granted only a three-month waiver, given uncertainty about how long the pandemic would continue to affect Inteliquent's terminating-to-originating traffic ratios.<sup>27</sup> Accordingly, we granted Inteliquent's request for renewal of its temporary waiver through December 1, 2020.<sup>28</sup>

8. On November 19, 2020, Inteliquent filed a Third Renewal Request limited to two of the four urban LATAs covered in the *Inteliquent Second Waiver Renewal Order*—Chicago and Houston.<sup>29</sup> Inteliquent explained that the ongoing pandemic continued to result in "substantial conference platform traffic that Inteliquent is terminating for pre-existing customers Zoom and Cisco Webex to facilitate remote work, distance learning, and socializing with friends and family."<sup>30</sup> Inteliquent again certified that there had been no material change to the facts that led the Bureau to grant the initial waiver or subsequent waiver renewal requests, including the fact that it is the increase in conferencing traffic as a result of COVID-19 that has caused Inteliquent's terminating-to-originating ratios to exceed 6:1 in the two LATAs.<sup>31</sup> We granted renewal of Inteliquent's temporary waiver through March 1, 2021.<sup>32</sup>

9. On February 23, 2021, Inteliquent filed a Fourth Waiver Renewal Request, again limited to the Chicago and Houston LATAs.<sup>33</sup> In this request, Inteliquent confirmed that "COVID-19 continues to cause substantial conference platform traffic for Inteliquent to terminate for pre-existing customers Zoom and Cisco Webex."<sup>34</sup> Inteliquent provided actual terminating-to-originating ratios for the Chicago and Houston LATAs,<sup>35</sup> and again certified that its traffic ratios exceeded 6:1 in the relevant markets

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<sup>24</sup> Inteliquent sought waiver for traffic terminating in the Chicago, IL, Houston, TX, Philadelphia, PA, and Jacksonville, FL, LATAs. Request of Onvoy, LLC d/b/a Inteliquent for Renewal of Temporary Waiver of Section 61.3(bbb)(1)(ii) of the Commission's Rules, WC Docket No. 18-155 (filed Aug. 18, 2020) (Second Renewal Request). In its second request, Inteliquent said, "[a]s has remained the case throughout out waiver requests, Inteliquent's terminating conference call traffic continues to be routed efficiently to largely urban destinations based on legitimate network considerations, with rates benchmarked to the applicable RBOC serving the area where the calls terminate, all while imposing no mileage charges on IXC's for terminating this traffic (whether at the tandem or end office)." *Id.* at 4.

<sup>25</sup> Second Renewal Request Cert. of Brett Scorza.

<sup>26</sup> *Inteliquent Second Waiver Renewal Order*.

<sup>27</sup> *Id.*, 35 FCC Rcd at 10386, para. 3.

<sup>28</sup> *Id.* at 10389, para. 12.

<sup>29</sup> Request of Onvoy, LLC d/b/a Inteliquent for Renewal of Temporary Waiver of Section 61.3(bbb)(1)(ii) of the Commission's Rules, WC Docket No. 18-155 (filed Nov. 19, 2020) (Third Renewal Request). In its request, Inteliquent stated, "[a]s explained in our prior waiver requests, Inteliquent's terminating conference call traffic continues to be routed efficiently to largely urban destinations based on legitimate network considerations, with rates benchmarked to the applicable RBOC serving the area where the calls terminate, all while imposing no mileage charges on IXC's for terminating this traffic (whether at the tandem or end office)." *Id.* at 4.

<sup>30</sup> *Id.* at 2.

<sup>31</sup> *Id.* Cert. of Brett Scorza.

<sup>32</sup> *Inteliquent Third Waiver Renewal Order*, 35 FCC Rcd at 14571, para. 3.

<sup>33</sup> Request of Onvoy, LLC d/b/a Inteliquent for Renewal of Temporary Waiver of Section 61.3(bbb)(1)(ii) of the Commission's Rules, WC Docket No. 18-155 (filed Feb. 23, 2021) (Fourth Renewal Request).

<sup>34</sup> *Id.* at 2.

<sup>35</sup> *Id.* Exh. A.

due to the increase in conferencing traffic caused by the COVID-19 pandemic. We granted renewal of Inteliquent's temporary waiver through September 2021.<sup>36</sup>

10. On August 19, 2021, Inteliquent filed the Fifth Waiver Renewal Request, again limited to the Chicago and Houston LATAs.<sup>37</sup> In its request, Inteliquent explains that while the terminating-to-originating traffic ratios in those LATAs continue to move closer to 6:1, the COVID-19 pandemic, and in particular the emergence of the Delta variant, have further delayed a return to in-person work and other activities.<sup>38</sup> The request includes a certification that there has been no material change to the facts supporting the prior temporary waivers.<sup>39</sup> Inteliquent confirms that it was not engaged in Access Stimulation prior to its petitions for waiver. It explains that, even if any prior arrangements could be considered revenue sharing arrangements, its terminating-to-originating traffic ratios did not exceed the necessary 3:1 trigger for competitive LECs with a revenue sharing agreement.<sup>40</sup> Inteliquent also confirms that it "ended all arrangements that could have constituted a revenue sharing agreement before the *Access Arbitrage Order* became effective, and since that time has not entered into any such arrangements."<sup>41</sup>

11. As in its prior waiver requests, Inteliquent provides actual and projected terminating-to-originating traffic ratios for the relevant LATA's.<sup>42</sup> Inteliquent explains that, to ensure that the calculated ratios reflect only preexisting customers, the data supporting its request excludes terminating and originating traffic for new customers.<sup>43</sup> Furthermore, Inteliquent certifies that none of the terminating traffic in the Chicago or Houston LATAs terminates to an affiliated internet protocol-enabled service (IPES) provider, and that Inteliquent has not lowered its ratios through the use of direct connections or other "bypass" strategies.<sup>44</sup>

12. Inteliquent seeks a six-month waiver, through March 1, 2022, given projected traffic volumes to its preexisting customers and the ongoing nature of pandemic mitigation strategies.<sup>45</sup> Inteliquent commits to notifying the Commission if the waiver becomes unnecessary during the six-month period,<sup>46</sup> and suggests that "this may be the last renewal it seeks for one or both LATAs."<sup>47</sup>

### III. DISCUSSION

13. Generally, the Commission's rules may be waived for good cause shown.<sup>48</sup> The Commission may exercise its discretion to waive a rule where the particular facts render strict compliance inconsistent with the public interest.<sup>49</sup> The Commission may also take into account considerations of

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<sup>36</sup> *Inteliquent Fourth Waiver Renewal Order*, 36 FCC Rcd at 5706, para. 3.

<sup>37</sup> Fifth Renewal Request at 1-2.

<sup>38</sup> *Id.* at 2-3.

<sup>39</sup> *Id.* Cert. of Brett Scorza.

<sup>40</sup> *Id.* at 4; 47 CFR § 61.3(bbb)(1)(i).

<sup>41</sup> Fifth Renewal Request at 4-5.

<sup>42</sup> *Id.* Exhs. A, B.

<sup>43</sup> *Id.* at 5-6. Inteliquent defines "new" customers as parties that became customers after March 17, 2020. *Id.* at 5 n.9.

<sup>44</sup> *Id.* at 6 n.12, Cert. of Brett Scorza.

<sup>45</sup> *Id.* at 2.

<sup>46</sup> *Id.* at 6-7.

<sup>47</sup> *Id.* at 8.

<sup>48</sup> 47 CFR § 1.3.

<sup>49</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

hardship, equity, or more effective implementation of policy on an overall basis.<sup>50</sup> Waiver of the Commission's rules is appropriate if both: (1) special circumstances warrant a deviation from the general rule; and (2) such deviation will serve the public interest.<sup>51</sup> In the *Access Arbitrage Order*, the Commission contemplated the possible need for waivers when "a LEC, not engaged in arbitrage, finds that its traffic will exceed a prescribed terminating-to-originating traffic ratio."<sup>52</sup>

14. In the *Inteliquent Waiver Order* and subsequent renewal orders, we recognized that the continuing impact of the COVID-19 pandemic on Inteliquent's existing conference calling service customers could justify further renewals of its temporary and limited waiver of a portion of the Commission's Access Stimulation Rules.<sup>53</sup> And we recognize that many pandemic-mitigation measures remain in place, particularly given the presence of the Delta variant.<sup>54</sup> Accordingly, we find that the significantly increased conference calling traffic volumes to Inteliquent's preexisting customers Zoom and Cisco Webex due to COVID-19 pandemic-related restrictions continue to constitute special circumstances justifying a further renewal of the temporary waiver, and that the public interest also supports renewal of the temporary waiver.

15. The actual and projected data provided by Inteliquent in its Fifth Renewal Request support a grant.<sup>55</sup> Inteliquent provided actual terminating-to-originating traffic ratios and traffic volumes in the Chicago and Houston LATAs for June 2021 through July 2021 and projected traffic ratios and volumes for August 2021 to October 2021. These data show that the ratios of terminating-to-originating traffic for preexisting customers in each of the two LATAs have exceeded 6:1 since March 2020 and are expected to continue to exceed 6:1 throughout the period covered by this waiver.<sup>56</sup> Inteliquent explains that although the terminating-to-originating traffic ratios for its preexisting customers in the relevant LATAs have consistently declined, they have not yet plateaued or dropped to pre-pandemic levels.<sup>57</sup> Inteliquent explains that "absent a reversal in the consistent declines seen in the ratios for both markets, whether such a reversal is caused by the Delta or another variant, Inteliquent expects that this may be the last renewal it seeks for one or both LATAs."<sup>58</sup> We find that continuing to limit the waiver to preexisting customers in specific LATAs effectively balances the need to safeguard against potential harms from access arbitrage and the desire to allow the company to continue to help keep America connected during the ongoing pandemic.

<sup>50</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

<sup>51</sup> *Northeast Cellular*, 897 F.2d at 1166.

<sup>52</sup> *Access Arbitrage Order*, 34 FCC Rcd at 9058-59, para. 53.

<sup>53</sup> *Inteliquent Waiver Order*, 35 FCC Rcd at 2939-40, para. 17; *Inteliquent Waiver Renewal Order*, 35 FCC Rcd at 6449, para. 15; *Inteliquent Second Waiver Renewal Order*, 35 FCC Rcd at 10390, para. 13; *Inteliquent Third Waiver Renewal Order*, 35 FCC Rcd at 14575, para. 13; *Inteliquent Fourth Waiver Renewal Order*, 36 FCC Rcd at 5711-12, para. 16.

<sup>54</sup> Inteliquent explains that the highly contagious nature of the Delta variant has delayed the lifting of many COVID-19-related restrictions and safety practices. Fifth Renewal Request at 2-3; *see also id.* at 3 n.3 (citing *Videoconferencing App Usage 'Hits 21 Times Pre-Covid Levels'*, AV Magazine (Aug. 5, 2021), <https://www.avinteractive.com/news/collaboration/usage-mobile-video-conferencing-apps-including-zoom-grew-150-first-half-2021-05-08-2021/> ("Booming growth in usage of cloud videoconferencing platforms is continuing unabated, new figures show. According to market researcher Sensor Tower, the number of combined monthly active users of Zoom, Microsoft Teams and Google Meet mobile apps is now 21 times the level of the pre-pandemic first half of 2019 and still two and half times the level achieved when the pandemic struck in the first half of 2020.")).

<sup>55</sup> Fifth Renewal Request Exh. A.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 7.

<sup>58</sup> *Id.* at 8.

16. Inteliquent again certifies that, as to the two LATAs for which it requests the waiver renewal, there has been no material change in the facts that led to the grant of the Petition or subsequent renewal requests.<sup>59</sup> In the Fifth Renewal Request, Inteliquent confirms that it is not engaged in access arbitration.<sup>60</sup> As we explained in our prior waiver orders, Inteliquent did not meet the Access Stimulation definition before its petition for waiver of section 61.3(bbb)(1)(ii), and we find again that it is not currently engaged in efforts to stimulate traffic terminating on its network.<sup>61</sup> Furthermore, Inteliquent once again limits its waiver request to traffic terminating to its preexisting customers.<sup>62</sup> We find that limiting the waiver to preexisting Inteliquent customers ensures that the traffic driving the increase in terminating-to-originating ratios is a result of COVID, and not the result of Inteliquent adding new customers engaged in access stimulation.

17. A third party, CarrierX, LLC (CarrierX), twice filed comments discussing Inteliquent's waiver requests in an unrelated docket.<sup>63</sup> In its comments CarrierX questions the factual assertions Inteliquent certified to in its Petition and renewal requests,<sup>64</sup> and argues that the Commission has treated Inteliquent more favorably than other carriers that may be tripping the access-stimulation triggers.<sup>65</sup> Although those comments are not part of the record in this proceeding, we note that Inteliquent effectively addresses these issues in its Fifth Renewal Request and accompanying certifications.<sup>66</sup> CarrierX also requests that we require Inteliquent to provide more specific data and to provide better support for its waiver request.<sup>67</sup> Even if we were to treat those pleadings as part of the record in this proceeding, we would find CarrierX's arguments unpersuasive. We find that no additional data or explanations are necessary to support a partial grant of Inteliquent's latest request. The Bureau previously relied on similar information when considering Inteliquent's prior waiver requests and we are satisfied by the fact that Inteliquent's Chief Information Officer has certified to the accuracy of Inteliquent's data and factual explanations.<sup>68</sup> Accordingly, we find that no additional data or certifications are necessary for us to determine whether good cause exists to grant the current waiver request.

18. We also reject CarrierX's allegations concerning disparate treatment for two independent reasons. The allegations are not only procedurally defective—having been filed in a different docket—

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<sup>59</sup> *Id.* Cert. of Brett Scorza (certifying that all information in the Fifth Renewal Request is true).

<sup>60</sup> *Id.* at 3.

<sup>61</sup> *Inteliquent Waiver Order*, 35 FCC Rcd at 2938, para. 14; *Inteliquent Waiver Renewal Order*, 35 FCC Rcd at 6448, para. 13; *Inteliquent Second Waiver Renewal Order*, 35 FCC Rcd at 10389, para. 11; *Inteliquent Third Waiver Renewal Order*, 35 FCC Rcd at 14575, para. 12; *Inteliquent Fourth Waiver Renewal Order*, 36 FCC Rcd at 5710, para. 13.

<sup>62</sup> Fifth Renewal Request at 5-6.

<sup>63</sup> CarrierX, LLC Comments, WC Docket No. 21-131 (rec. June 14, 2021) (opposing an application to transfer control of Inteliquent from GTCR Onvoy Holdings, LLC to Sinch US Holdings, Inc.) (CarrierX First Merger Comments); CarrierX, LLC Comments, WC Docket No. 21-131 (rec. Sept. 2, 2021) (CarrierX Second Merger Comments) (arguing that the Fifth Renewal Request shows how the transfer is not in the public interest).

<sup>64</sup> CarrierX First Merger Comments at 8-12.

<sup>65</sup> CarrierX Second Merger Comments at 5-6.

<sup>66</sup> *See, e.g.*, Fifth Renewal Request at 4-5 & n.7 (explaining that “to the extent that Inteliquent in the past has had any inbound voice arrangements that arguably could qualify as a ‘revenue sharing agreement,’ its traffic ratios remained below the 3:1 ratio” and that it “ended all arrangements that could have constituted a revenue sharing agreement” prior to the effective date of the *Access Arbitration Order*); *id.* n.9 (explaining that Inteliquent's ratios exclude traffic from parties that became Inteliquent customers after March 17, 2020); *id.* n.12 (explaining that Inteliquent terminates no traffic to affiliated IP-enabled service providers in the two LATAs for which it requests an extension of the temporary waiver).

<sup>67</sup> CarrierX First Merger Comments at 11-12.

<sup>68</sup> Fifth Renewal Request Cert. of Brett Scorza; *see also* 47 CFR § 1.16.

but substantively incorrect.<sup>69</sup> For example, Inteliquent is the only party seeking a waiver of the Commission's access-stimulation rules that has certified to facts establishing that it was not engaged in access stimulation when the pandemic started.<sup>70</sup> Thus, contrary to CarrierX's assertions, the facts and circumstances supporting Inteliquent's waiver requests are not identical to the circumstances of all other providers of conferencing services.<sup>71</sup>

19. Inteliquent again requests a six-month waiver renewal.<sup>72</sup> We recognize that the longer waiver period that Inteliquent requests might reduce the administrative burden of more frequent waiver reviews. However, due to the rapidly changing circumstances caused by the COVID-19 pandemic, and consistent with prior extension grants, we find it prudent to grant this renewal for a shorter period than requested. We have granted Inteliquent three-month waivers in the past and granting Inteliquent's waiver in increments of three months has proven to be a workable and effective timeframe by which to closely monitor the effects of the pandemic on Inteliquent's terminating-to-originating traffic ratios.<sup>73</sup> As Inteliquent recognized in its latest petition, its traffic patterns continue to normalize as COVID-related restrictions are eliminated or modified.<sup>74</sup> Limiting the duration of this waiver will allow us to evaluate the updated traffic ratio projections underlying any future renewal requests more closely, thus allowing us to more accurately assess if the public interest would be served by granting any such request.

20. For these reasons, we find good cause exists to grant in part Inteliquent's Fifth Renewal Request for a temporary waiver of the Access Stimulation definition in section 61.3(bbb)(1)(ii) of the Commission's rules as to traffic terminating to Inteliquent's preexisting customers in the Chicago and Houston LATAs through December 31, 2021. As further protection against potential abuse, we require Inteliquent to contact the Bureau—by a letter, to be filed in this docket—if it no longer requires a waiver of rule 61.3(bbb)(1)(ii) at any time prior to December 1, 2021.

21. If the COVID-19 pandemic continues to drive unprecedented levels of conference platform traffic, the terminating-to-originating traffic ratios of Inteliquent's preexisting conference calling service provider customers may continue to exceed 6:1, and a further temporary renewal may be justified.<sup>75</sup> As part of any further renewal request, Inteliquent should certify that there has been no

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<sup>69</sup> CarrierX Second Merger Comments at 4-5.

<sup>70</sup> Compare Inteliquent Waiver Petition at 2-3, Cert. of Brett Scorza (seeking a limited waiver and explaining that, but for the COVID pandemic, Inteliquent would not have traffic ratios triggering the access stimulation rules), *with* Petition for Temporary Waiver by Free Conferencing Corporation of Access Arbitrage Order, WC Docket No. 18-155 (filed Apr. 1, 2020) (not addressing whether its traffic will newly meet the definition of access stimulation and failing to provide, among other things, pre-pandemic traffic ratios of the LECs that terminate its traffic); Petition of Native American Telecom – Pine Ridge, LLC for Waiver of Section 61.33(bbb)(1)(ii) of the FCC's Rules, WC Docket No. 18-155 (filed Mar. 19, 2020) (requesting a blanket waiver of the access-stimulation rules for all competitive LECs, but providing no information or data specific to any particular carrier); Petition of Telengy, LLC for Waiver of Section 61.3(bbb)(1)(ii) of the Commission's Rules, WC Docket No. 18-155 (filed May 3, 2021) (failing to limit its waiver request and offering no specific data concerning its traffic volumes before and after the COVID pandemic).

<sup>71</sup> CarrierX Second Merger Comments at 5-6.

<sup>72</sup> Fifth Renewal Request at 2.

<sup>73</sup> *Inteliquent Waiver Order*, 35 FCC Rcd at 2938, para. 14; *Inteliquent Waiver Renewal Order*, 35 FCC Rcd at 6447-48, para. 11.

<sup>74</sup> Fifth Renewal Request at 2.

<sup>75</sup> For purposes of this temporary waiver request, we rely on the unrebutted accuracy—and facial plausibility—of the representations made in the Petition, Renewal Request, Second Renewal Request, Third Renewal Request, Fourth Renewal Request, and Fifth Renewal Request, and on the supporting data submitted. To the extent that interested parties dispute the facts provided or the policy reasoning in granting the request for renewal, they may seek reconsideration or full Commission review as appropriate. See 47 CFR §§ 1.106, 1.115. In addition, we  
(continued....)

material change to the facts that led to the grant of this renewal request.<sup>76</sup> If, at the time it requests a future waiver, Inteliquent cannot certify that there have been no material changes to the facts supporting its previous requests, Inteliquent's certification must describe the material changes that have occurred, and explain why a further renewal is nonetheless justified. The certification must also include information about the terminating and originating traffic volumes for Inteliquent's preexisting customers for two months preceding the certification date and estimated terminating and originating traffic volumes of those preexisting customers for two months succeeding the certification date.

#### IV. ORDERING CLAUSES

22. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4, 201, 202, and 205 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201, 202, and 205, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that section 61.3(bbb)(1)(ii) of the Commission's rules is temporarily waived as to Onvoy, LLC d/b/a Inteliquent, Inc., to the extent described herein, until December 1, 2021 and the Fifth Renewal Request IS GRANTED IN PART.

23. IT IS FURTHER ORDERED, that pursuant to the authority contained in sections 1-4, 201, 202, and 205 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201, 202, and 205, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that Onvoy, LLC d/b/a Inteliquent, Inc. must notify the Wireline Competition Bureau if it no longer requires waiver of section 61.3(bbb)(1)(ii) of the Commission's rules at any time prior to December 1, 2021.

24. IT IS FURTHER ORDERED, that pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith  
Chief  
Wireline Competition Bureau

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suggest that any parties objecting to a possible further renewal of the waiver make a filing in the docket sufficiently in advance of December 1, 2021, to enable its consideration in connection with any renewal request.

<sup>76</sup> *Inteliquent Waiver Order*, 35 FCC Rcd at 2939-40, para. 17; *Inteliquent Waiver Renewal Order*, 35 FCC Rcd at 6449, para. 15; *Inteliquent Second Waiver Renewal Order*, 35 FCC Rcd at 10390, para. 13; *Inteliquent Third Waiver Renewal Order*, 35 FCC Rcd at 14575-76, para. 13; *Inteliquent Fifth Waiver Order*, 36 FCC Rcd at 5711-12, para. 16.